

# SOUTHERN ENVIRONMENTAL LAW CENTER

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January 28, 2020

## **Via Electronic Filing**

The Honorable Jocelyn G. Boyd  
Chief Clerk/Administrator  
Public Service Commission of South Carolina  
101 Executive Center Drive  
Columbia, SC 29210

RE: Rulemaking for the Public Service Commission's Procedure to Employ,  
through Contract or Otherwise, Third-Party Consultants or Experts

Role of the Qualified, Independent Third-Party Expert and the  
Commissioners' Reliance on the Contents of the Qualified, Independent  
Third-Party Expert's Report

**Docket Numbers 2019-289-A and 2019-362-A**

Dear Ms. Boyd:

Please accept this correspondence on behalf of the South Carolina Coastal Conservation League ("CCL") and Southern Alliance for Clean Energy ("SACE", collectively "Conservation Groups").<sup>1</sup> CCL and SACE respectfully request that proposed Rule 103-811 *sections (F) and (G)* regarding the role of third-party consultants or experts be moved from consideration in Docket No. 2019-289-A to consideration in rulemaking Docket No. 2019-362-A.<sup>2</sup>

The Commission's original notice of rulemaking in Docket No. 2019-289-A focused on the *procedure to employ*, through contract or otherwise, third-party consultants or experts. The Commission's proposed Rule 103-811 sections (A)-(E) address exactly this issue, the procedure to employ such experts or consultants.

Sections (F) and (G), which were proposed by Duke Energy in comments submitted on November 8, 2019, do not pertain to the procedure for retaining consultants or experts, but rather to the role of those experts and limitations to their role and work.

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<sup>1</sup> Conservation Groups and counsel are unable to attend the meeting on January 29, 2020 regarding this matter, but respectfully submit these comments in writing for the Commission's consideration ahead of the meeting.

<sup>2</sup> The Commission's original proposed rule notices in Docket No. 2019-289-A included the language ultimately proposed in Rule 103-811(A)-(E) regarding the procedure for employing consultants or experts. Sections (F) and (G) were proposed by Duke Energy on Nov. 8, 2019, and added to the Commission's proposed rule on Nov. 12, 2019, and these sections pertain to the role of the consultants or experts.

Particularly in light of Duke Energy's petition for reconsideration in the Duke Energy Avoided Cost proceedings, filed on January 13, 2020, seeking to strike portions of the Commission's expert's report, and other parties' responses filed on January 22, 2020, it is now apparent that proposed Sections (F) and (G) raise a number of contentious issues and questions that warrant further review and vetting in a separate rulemaking.<sup>3</sup>

The Commission has indeed already opened a separate docket and rulemaking to consider rules for the ***role and reliance on*** third-party consultants or experts: Docket No. 2019-362-A. The provisions (F) and (G) proposed by Duke Energy are more appropriately considered and reviewed in that docket.

Therefore, CCL and SACE respectfully request that the Commission remove proposed sections (F) and (G) from proposed rule in Docket No. 2019-289-A, and consider those instead (along with any other related proposals and/or comments) in Docket No. 2019-362-A.

Regarding the language of proposed Rule 103-811(A)-(E), as originally noticed and proposed by the Commission in Docket No. 2019-289-A, Conservation Groups submit that these sections (A)-(E) appear reasonably tailored to provide a fair and transparent ***hiring procedure*** for the Commission's independent, qualified consultants pursuant to the South Carolina Energy Freedom Act.

By copy of this letter, I am serving all parties of record on the service list. Please let me know if you have any questions about this filing.

Sincerely,

/s/ J. Blanding Holman, IV  
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\*Please note our new address.

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<sup>3</sup> See Commission Docket Nos. 2019-185-E and 2019-186-E.

# CERTIFICATE OF SERVICE

I hereby certify that the parties listed below have been served with a copy of the letter filed on behalf of the South Carolina Coastal Conservation League by electronic mail or by deposit in the U.S. Mail, first-class, postage prepaid.

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This 28th day of January, 2020.

s/ Lauren Fry  
Lauren Fry